

Testimony before the Michigan House Insurance Committee

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I bring greetings from the city of Boston.

My name is Daniel Johnston. I am president of the Automobile Insurers Bureau of Massachusetts, an insurance industry actuarial organization. I have held that position since 1989. In 1991, I also assumed the role of Executive Director of the then-newly-formed Insurance Fraud Bureau of Massachusetts. I continue today in both capacities. In addition, in recent years I have served on the board of the Coalition Against Insurance Fraud and as president of the International Association of Insurance Fraud Agencies.

I am here today to speak in support of House Bill 4612, your state's no-fault reform bill, and to offer some perspective from my years working on rate setting in Massachusetts, and fighting fraud on a number of levels.

Twenty five years ago, Massachusetts was known as the theft capital of the country, but today we have largely solved that problem. The average cost of paying theft claims in our state is now below \$10 per car, per year. But during that period, a new problem has arisen that requires our constant vigilance and that is medical fraud.

Let me speak to the importance of addressing medical fraud in the auto insurance system, and the benefit it can have for your insurance marketplace and your consumers. Over the 22 years of the IFB's existence in Massachusetts, we have seen all types of medical fraud, some we refer to as "soft fraud" and yet others take the form of more organized criminal activities. Soft fraud takes the form of practitioners overbilling and over treating patients and up-coding patient bills. More serious fraud involves billing for treatment for patients who didn't even show up to be treated, billing insurers twice or even more for the same treatment, and people pursuing medical treatment by claiming they were in a car that was in an accident, when in fact they were not.

Keep in mind in my state, and I'm sure yours, the vast majority of hospital professionals and other medical practitioners are honest, hardworking individuals who do a great job. In some cases the mere existence of a payment support system like your unlimited medical benefits today, can provide the unexpected result of a disproportionate number of diagnoses or treatments that might not be present in a typical managed care environment. I note, as an example, the unusual number of brain injuries claimed in auto accidents in Michigan as reported by Professor Sharon Tennyson of Cornell University in her April 2011 paper on the subject. She cites that the Michigan statistic is **eight times the average of the rest of the country**. The high number of injuries being characterized as brain injuries is likely the unintended consequence of the unlimited medical benefit and lack of cost controls. The relative high cost of brain injuries, and the evident high frequency in your state add significantly to your costs.

Insurance fraud can also breed the development of subsets of medical providers whose entire practice seems to be built around fraudulent transactions, some of which are manufactured and coached by those providers.

That brings me to a special event that occurred in our state in 2003. Up until then, our fraud bureau routinely investigated cases referred to us by insurers, the public, and certain state agencies. Insurance company special Investigative units had handled many of these claims to detect and control fraud on their own, and deny claims where appropriate. Cases where the IFB could prove fraud beyond a reasonable doubt were referred to the State Attorney General, or sometimes the US Attorney. In September of that year, a staged accident occurred in Lawrence, Massachusetts where a grandmother was killed in a vehicle operated by one of her family members. We knew it was staged, because in the days that followed, elderly friends of the grandmother came forward to report that they were offered to buy seats in the car ahead of time so they could cash in on the staged accident.

Using data we collect on injury claims in Massachusetts, we data-mined our sources and found multiple cases of individuals presenting 6, 8, even 10 PIP claims over a short period. We noticed that the injury ratio per accident was off the charts in Lawrence. Where the statewide average was 43 injuries for every 100 accidents, in Lawrence it was 141 injuries for every 100 accidents, a clear sign that accidents were occurring with packed cars of opportunists. Additionally, we found a very large number of high volume chiropractors and physical therapists operating in the small city.

This led us to form a task force with the Lawrence Police Department and the local District Attorney. Using insurance data, we focused our investigations on the Lawrence scene and found a virtual cottage industry built up around that art of staging accidents. In the early stages, we were discovering and charging one group of staged accident perpetrators per week. Eventually, we identified runners that pulled these groups together and coached and trained the participants. This led us to the chiropractors who were paying for these events, and ultimately to several lawyers who were part of the scheme.

Over the past ten years we charged 488 accident stagers, and medical and legal professionals with insurance fraud. Today, the number of high volume chiropractors and physical therapists in Lawrence has dropped from 22 when we started, to 7. Some got jail time, others lost their licenses. Others just stopped practicing. Most importantly, the citizens of Lawrence saw their premiums go down, on average \$335 per year over this period.

This model was expanded to 12 other cities in our state, including Boston, and the numbers were equally impressive. In all, total premiums in the towns where we instituted this program have been reduced by a collective \$874 million.

The message here is that, a first party payment system can be a breeding ground for unscrupulous individuals. Professional practices of different types can pop up simply because the system allows them to. Data can be used to point the efforts in the direction of system abuse, and a fraud fighting organization can be a big help.

A successful fraud fight includes all the aspects of the bill you are considering today. From the creation of a fraud agency, to cost containment tools and to putting limits on benefits will be key features that work together to make this effective in the long run for your citizens.

There are currently 43 states that have an organized fraud bureau that investigates referrals for prosecution. I am pleased to see Michigan taking its first major step in that direction with your Fraud Prevention Authority contemplated in this bill.

Cost containment is a crucial part of your bill. The introduction of caps on the rates of reimbursement to those rates negotiated by the health care insurance industry will help eliminate the unfettered practice of billing auto insurers for services at rates that far exceed rates charged to other insurance entities. In addition, setting an overall cap in lifetime benefits makes prudent sense to control costs. Without this limitation on lifetime benefits or cap on rates charged, care providers or care recipients would lack the motivation to hold down the cost of their own health care.

I understand that under today's Michigan uncapped, unlimited system, about 117 claims per year make it over \$1 million. In Massachusetts, by comparison (a state with 2/3 the population of Michigan), we see less than five claims per year that surpass \$300,000. Obviously, the premium savings potential for your citizens is significant under your new proposal. More importantly, lower rates should help to encourage the 20 percent of your citizens who are uninsured to buy insurance and reduce the burden on those who already do.

In Massachusetts, the auto insurers are responsible to pay the first \$2000 of medical bills, after which the health insurers take over. And while there is the opportunity for the health insurers to eventually subrogate for recoveries, all treatment after \$2000 is usually in a managed care environment by the health care provider and the provider's network, like any other normal health care service. This produces remarkable savings. In the case of your new \$1,000,000 limit, under a managed care (or fee capped) environment, the possibility of a claim exceeding that limit would be drastically reduced.

In Massachusetts, we moved from a state fixed-rate system in 2008 to competition. The result over the last five years has been an increase in the number of companies entering the auto insurance market by 50 percent. This new-found competition in our state, and the continued aggressive fight against fraud, has helped to keep rates down. A corollary benefit is the expansion of the number of companies that offer homeowners insurance and even commercial lines of insurance. In the homeowners market, this resulted in greater competition and lower homeowner's premiums. In other words, the whole marketplace benefits.

I applaud you for taking this comprehensive approach to reform, and I am prepared to answer any questions you may have for me today.

Thank you.

The Eagle-Tribune

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Crackdown saves city drivers \$68M

By Mark E. Vogler

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LAWRENCE — Drivers who purchase automobile insurance in the city have saved more than \$68 million in premiums since the Sept. 4, 2003 death of a 65-year-old Lawrence woman in a staged car crash triggered a crackdown on fraudulent accident claims.

A special task force assembled by Lawrence police and the Insurance Fraud Bureau of Massachusetts shortly after that tragedy continues a decade later, leading to 488 people being charged with insurance fraud and related crimes.

The task force was so successful from the outset that it became the model for nine other task forces initiated by the fraud bureau in a dozen fraud-prone communities. Collectively, the task forces have saved drivers in those communities \$875 million since they were initiated. Criminal charges have been filed against 1,917 people.

Those are the major findings of a recent report issued jointly by the fraud bureau and the Automobile Insurers Bureau of Massachusetts titled "The Community Insurance Fraud Initiative (CIFI) A Ten Year Retrospective."

"Lawrence, while identified as the worst hotbed of fraudulent claims in the state, was not the only one," the report noted.

"Now 13 communities and their surrounding areas have in place task forces, labeled 'Community Insurance Fraud Initiatives,' or CIFI's. These task forces have been a catalyst in the steady reduction of auto insurance losses and premiums in the Commonwealth," it continued.

"Clearly, this CIFI effort has been a major contributor to a healthy auto insurance climate in Massachusetts over the past decade," the report said.

Much of the report is based on detailed analysis of various insurance claims data generated in each of the communities with a task force since their initiation. It measured the impact of each task force on the number of claims filed and premiums paid in fraud-prone communities.

The report determined:

- A dramatic improvement in injury-to-accident ratios. Prior to 2003, Lawrence had an average of 141 reported injuries for every 100 accidents — considerably higher than any other community and four times the statewide average of 38 injuries per accident. This is a key statistic tool used by the insurance industry to determine "high fraud" areas. Lawrence's ratio dropped from 134.4 to 60.2 in the first year after the crackdown and was at 49.4 for 2011.

- Significant reduction in "high volume" medical providers, those billing over \$100,000-a-year for services. There were 22 "high volume" chiropractors and physical therapists in Lawrence before its task force was established. Only seven remain and their collective billing dropped by 90 percent (\$8.1 million).

- A huge dollar drop in both claims and premiums. The average auto insurance premium in Lawrence has dropped from \$1,613 in 2003 to \$1,260 in 2011. The average annual savings per vehicle in Lawrence through 2011 was \$335 — higher than any other task force community. Collectively, the task force communities had an annual savings of \$185 per vehicle compared to \$148 statewide. Total written premiums in Lawrence dropped from more than \$43-million in 2003 to \$36.7-million in 2011.

Overall, there has been a \$266 million reduction in claims dollars (\$19 million in Lawrence).

Altagracia Arias, a great-grandmother, was killed in a Sept. 4, 2003 crash that she helped plan to scam insurance money for needy relatives, The Eagle-Tribune reported. The story disclosed that just hours before her death, Arias approached several people at the Lawrence Senior Citizens Center offering them a seat in the car for \$200 cash.

In the wake of the two-car crash at the intersection of Ferry and East Haverhill streets, Lawrence Police Chief John Romero assigned a handful of his detectives to team up with investigators from the fraud bureau, the fraud units of several insurance companies doing business in Lawrence, the Essex County District Attorney's Office and the state Attorney General's Office.

"This tragic event led to the creation of a unique and unprecedented task force dedicated to combating insurance fraud in the city, and eventually to the unraveling of a network of staged accident participants and facilitators that spanned ordinary citizens, runners, chiropractors, physical therapists and lawyers," the insurance-funded report said.

"This scheme had saddled the insurance industry, and ultimately the auto insurance buying public, with hundreds of millions of dollars of escalated costs for years. The good news is that the trend has been halted and significantly reversed," it concluded.

The Eagle-Tribune story about the fatal crash was part of an ongoing investigation by the paper which led to the publishing of a five-part series in July 2004 titled "At Fault: Inside the culture of auto insurance fraud." The series sparked a grand jury investigation and 16 indictments, including lawyers and chiropractors. Then-Gov. Mitt Romney later credited the stories with helping to pass an "anti-runner law" that made it a criminal offense for lawyers and health-care professionals to pay "runners" to bring them clients.

Meanwhile, the Lawrence task force began individual investigations of suspicious cases referred by the fraud bureau and the insurance industry. The investigations led to numerous arrests. The 484 people charged as a result of the work of the Lawrence task force is second only to Boston's unit (484), according to the insurance report.

"In Lawrence, it seemed that most of the staged accidents had roots in runners working directly for local chiropractors who were feeding off the extra "patients" the accidents brought in," the report stated. "To this day, the task force is active, working through an inventory of possible staged accident cases that have come to light."

"Staged accident activity in Massachusetts has been reduced dramatically as people around the state, who used to be involved in fraudulent activities, have taken notice of the crackdown and altered their activities," the report said.

The Boston Globe

January 28, 2013

Insurance for high-risk properties easier to get A ripple from state's auto-policy market

By Todd Wallack
Globe Staff

Competition in the state's car insurance market has yielded an unexpected benefit: Thousands of residents who once had to buy expensive home coverage from the Massachusetts FAIR Plan are increasingly able to find policies through other insurers, saving them hundreds of dollars a year on premiums. The FAIR Plan, known as the insurer of last resort, provides home insurance in high-risk areas, including neighborhoods that have high crime rates or sit perilously close to the ocean. Home insurance companies have traditionally been reluctant to do business in such locations.

But since the state gave insurers more freedom to set their own auto insurance rates, starting in 2008 — something it calls “managed competition” — 13 more auto insurance companies have set up shop in Massachusetts, with most also selling homeowners policies or partnering with firms that do.

Over that time, the FAIR Plan lost nearly 27,000 homeowners insurance customers, or 16 percent of its base, an exodus few in the industry predicted.

“It is all driven by this shift in the competitive marketplace,” said Robert Tommasino, general counsel for the Massachusetts Property Insurance Underwriting Association, better known as the FAIR Plan.

Some insurers, including Narragansett Bay Insurance Co., also decided the escalating prices of premiums for coastal properties made it worth their while to start selling policies in those locations. Their strategy has been to undercut the FAIR Plan rates while still charging enough to turn a profit.

Bob Inello, whose waterfront home in Nahant is exposed to the wrath of storms, said he was forced to buy Fair Plan coverage for more than a decade. But three years ago, Inello said, his agent said he could switch to Narragansett, cutting his bill by \$570 a year — more than 20 percent.

“I don't feel like I am being held hostage anymore,” Inello said. “It's very liberating.”

Even insurers that were well-positioned here before the state partially deregulated the auto insurance market are stepping up their marketing.

Boston-based Liberty Mutual, for instance, has tripled its salesforce and opened four new offices since 2008.

Like many other companies, Liberty Mutual also offers a discount to customers who bundle their auto and home insurance. Over the past five years, the company has gained tens of thousands of customers, helping to make Liberty Mutual the second-largest auto insurer and third-largest home insurer in Massachusetts.

“The shift to managed competition opened the door for us to grow,” said spokesman Glenn Greenberg. “If you can sell customers two products instead of one, that's a smart way to do business.”

Both regulators and insurance agents say competition has helped customers find alternatives to the FAIR Plan that are cheaper or better. "There are a lot more benefits available to the consumer in the voluntary market than in the FAIR Plan," said the state's insurance commissioner, Joseph Murphy.

For instance, the Boston insurance agency Vargas and Vargas said it recently saved a Brockton customer \$600 by moving her off the FAIR Plan.

While the FAIR Plan may be best known for offering coverage on Cape Cod, it was established by the state in 1968 to provide coverage in urban neighborhoods where insurance was becoming harder to buy because of concerns about arson, looting, and other crimes. It also became important in areas where houses are packed closely together or have not been updated to comply with modern building codes.

Even today, the FAIR Plan remains the dominant carrier in large swaths of Boston — such as Roxbury and Mattapan — and in Lynn and Lawrence, where it has 42 percent of the market.

But starting a decade ago, the FAIR Plan became increasingly common in coastal areas when many insurers became worried about the risk from severe storms. The plan still has about 54,000 homeowners policies on the Cape and Islands, accounting for more than one-third of those markets. Statewide, it accounts for more than 1 in 10 homeowners policies.

And even with the additional competition, home insurance remains scarcer and much more expensive on the coast. A typical four-bedroom in Groveland, a small town near the New Hampshire border, might cost \$1,000 a year to insure, said Steven P. Roy of Elliot Whittier Insurance Services, an insurance broker in Danvers. But the owner of a similar home in Falmouth would probably pay more than twice that, he said. Many coastal customers also complain about high deductibles. Yet many Cape and Islands property owners remain unaware that better deals might be available, insurance agents say.

"There are still a lot of customers in the FAIR plan that shouldn't be there," said Kevin Hicks of K.D. Hicks Insurance Agency Inc. in Boston. "It's still in the mind-set of customers that the FAIR Plan is the only game in town. It's not."

Maria Zodda, a retired schoolteacher on Nantucket, knows that to be true. Two years ago, she said, her agent was able to offer a homeowners policy through the British insurance giant Lloyd's of London. The coverage was more comprehensive, Zodda said, and her annual premium dropped by more than 25 percent, or \$2,300 a year.

"For years and years, I was trying to find another company to cover me," she said. "Now we finally have a choice."

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